

ENVIRONMENTAL QUALITY

CHAPTER 8

AIR QUALITY

Sub-Chapter 5

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Sub-Chapter 5

Air Quality Permit Application, Operation
and Open Burning Fees17.8.501 DEFINITIONS For the purposes of this subchapter:

(1) "Facility" means any real or personal property that is either stationary or portable and is located on one or more contiguous or adjacent properties under the control of the same owner or operator and that emits or has the potential to emit any air pollutant subject to regulation under the Clean Air Act of Montana or the Federal Clean Air Act, including associated control equipment that affects or would affect the nature, character, composition, amount, or environmental impacts of air pollution and that has the same two-digit standard industrial classification code. A facility may consist of one or more emitting units. (History: 75-2-111, MCA; IMP, 75-2-211, MCA; NEW, 1991 MAR p. 2606, Eff. 12/27/91; TRANS, from DHES, 1996 MAR p. 2285; AMD, 2003 MAR p. 2271, Eff. 10/17/03.)

Rules 17.8.502 and 17.8.503 reserved

17.8.504 AIR QUALITY PERMIT APPLICATION FEES

(1) Concurrent with submittal of a Montana air quality permit application, as required in ARM Title 17, chapter 8, subchapter 7, or ARM Title 17, chapter 8, subchapter 8, the applicant shall submit an application fee of \$500.

(2) Concurrent with submittal of the following air quality operating permit applications, as required in ARM Title 17, chapter 8, subchapter 12, the applicant shall submit an application fee of \$500:

(a) an application for a new air quality operating permit that is not submitted concurrently with a Montana air quality permit application;

(b) an application for an air quality operating permit renewal; or

(c) an application for a significant modification to an air quality operating permit.

(3) An air quality permit application is incomplete until the proper application fee is paid to the department.

(4) An air quality permit application fee is separate and distinct from any air quality operation fee required to be submitted to the department pursuant to ARM 17.8.505. (History: 75-2-111, 75-2-220, MCA; IMP, 75-2-211, 75-2-220, MCA; NEW, 1991 MAR p. 2606, Eff. 12/27/91; AMD, 1993 MAR p. 2531, Eff. 10/29/93; AMD, 1994 MAR p. 3189, Eff. 12/23/94; AMD, 1995 MAR p. 535, Eff. 4/14/95; AMD, 1995 MAR p. 2415, Eff. 11/10/95; TRANS, from DHES, 1996 MAR p. 2285; AMD, 1996 MAR p. 2581, Eff. 10/4/96; AMD, 1997 MAR p. 1585, Eff. 9/9/97; AMD, 1998 MAR p. 2486, Eff. 9/11/98; AMD, 1999 MAR p. 2254, Eff. 10/8/99; AMD, 2000 MAR p. 2697, Eff. 10/6/00; AMD, 2003 MAR p. 2271, Eff. 10/17/03.)

17.8.505 AIR QUALITY OPERATION FEES (1) An annual air quality operation fee must be submitted to the department by the owner or operator of:

(a) each facility for which a Montana air quality permit has been issued by the department and remains in effect; and

(b) each facility for which an air quality operating permit has been issued by the department and remains in effect.

(2) Pursuant to this rule, fees shall be assessed to the owner or operator of record on the date of billing, for all facilities that meet the description in (1) as of January 1 of the calendar year in which fees are billed.

(3) Air quality permit fee schedules will require owners and operators of all facilities required to obtain a Montana air quality permit or an air quality operating permit to contribute to those department activities funded by air quality permit fees. The department shall attempt to identify all facilities subject to the annual air quality operating fee requirement and shall require payment from the owners or operators of all facilities.

(4) Annually, the department shall provide the owner or operator of each facility required to pay an air quality operation fee with written notice of the amount of the fee and the basis for the fee assessment.

(a) The air quality operation fee is due within 30 days after receipt of the notice, unless the fee assessment is appealed pursuant to ARM 17.8.511. If any portion of the fee is not appealed, that portion of the fee that is not appealed is due within 30 days after receipt of the notice. Any remaining fee that is due after completion of an appeal is due within 30 days after issuance of the board's decision or within 30 days after issuance of the final decision in any judicial review of the board's decision.

(b) If an owner or operator assessed an air quality operation fee fails to pay the required fee (or any required portion of an appealed fee) within 30 days after the due date, the department may impose a late payment charge of 10% of the fee (or of any required portion of an appealed fee), plus interest on the fee (or on any required portion of an appealed fee) computed at the interest rate established under 75-2-220(5)(a)(i), MCA.

(5) The air quality operation fee is based on the actual, or estimated actual, amount of air pollutants emitted by the facility during the previous calendar year and is an administrative fee of \$400, plus \$21.58 per ton of PM-10, sulfur dioxide, lead, oxides of nitrogen and volatile organic compounds emitted.

(6) The owner or operator of a facility may not be required to pay more than one administrative fee if the facility is subject to more than one Montana air quality permit issued by the department.

(7) An air quality operation fee is separate and distinct from any air quality permit application fee required to be submitted to the department pursuant to ARM 17.8.504.

(8) Annual assessment and collection of the air quality operation fee will be on a calendar year basis. The department may include conditions in a permit requiring payment of an air quality operation fee on a calendar year basis, including provisions prorating the required fee.

(9) The owner or operator of each facility subject to (1) shall submit to the department, on the date specified by the department, all information necessary to complete an inventory of estimated actual emissions for the preceding calendar year. The department shall notify the owner or operator of the facility of the date by which the information must be submitted. The information submittal date may not be earlier than February 15. (History: 75-2-111, 75-2-220, MCA; IMP, 75-2-211, 75-2-220, MCA; NEW, 1991 MAR p. 2606, Eff. 12/27/91; AMD, 1992 MAR p. 2390, Eff. 10/30/92; AMD, 1993 MAR p. 2531, Eff. 10/29/93; AMD, 1994 MAR p. 3189, Eff. 12/23/94; AMD, 1995 MAR p. 535, Eff. 4/14/95; AMD, 1995 MAR p. 2415, Eff. 11/10/95; TRANS, from DHES, 1996 MAR p. 2285; AMD, 1996 MAR p. 2581, Eff. 10/4/96; AMD, 1997 MAR p. 1585, Eff. 9/9/97; AMD, 1998 MAR p. 2486, Eff. 9/11/98; AMD, 1999 MAR p. 2254, Eff. 10/8/99; AMD, 2000 MAR p. 2697, Eff. 10/6/00; AMD, 2001 MAR p. 2412, Eff. 12/7/01; AMD, 2002 MAR p. 2902, Eff. 10/18/02; AMD, 2003 MAR p. 2271, Eff. 10/17/03; AMD, 2004 MAR p. 2547, Eff. 10/22/04.)

17.8.506 CREDIT AGAINST AIR PERMITTING FEES FOR CERTAIN USES OF POSTCONSUMER GLASS (1) Sections 75-2-224 through 75-2-227, MCA, provide a credit against the fees imposed under this subchapter for using postconsumer glass in recycled material.

(2) For the purposes of this rule, "postconsumer glass" and "recycled material" mean the same as defined in 75-2-224, MCA. (History: 75-2-227, MCA; IMP, 75-2-211, 75-2-224, 75-2-225, 75-2-226, 75-2-227, MCA; NEW, 2002 MAR p. 529, Eff. 3/1/02.)

Rules 17.8.507 through 17.8.509 reserved

17.8.510 ANNUAL REVIEW (1) No later than September 30 of each year, the department shall report to the board regarding the air quality permit fees which are anticipated for the next calendar year. This report shall include a description of the legislative appropriation to be recovered, the status of the specific appropriation account as of the end of the previous fiscal year, the emissions upon which such fees will be based, the fee structure to be implemented, and the status of any anticipated rulemaking activity necessary to adopt the new fees. (History: 75-2-111, MCA; IMP, 75-2-211, MCA; NEW, 1991 MAR p. 2606, Eff. 12/27/91; TRANS, from DHES, 1996 MAR p. 2285; AMD, 2002 MAR p. 2902, Eff. 10/18/02.)

17.8.511 AIR QUALITY PERMIT APPLICATION/OPERATION FEE ASSESSMENT APPEAL PROCEDURES (1) The department's fee assessment may be appealed by the owner or operator of the facility to the board of environmental review within 20 days of:

- (a) receipt of the fee assessment notice; or
- (b) issuance of a determination of incompleteness of a permit application based on the lack of the proper permit application fee. (History: 75-2-111, MCA; IMP, 75-2-211, MCA; NEW, 1991 MAR p. 2606, Eff. 12/27/91; AMD, 1992 MAR p. 2061, Eff. 9/11/92; AMD, 1992 MAR p. 2285, Eff. 10/16/92; TRANS, from DHES, 1996 MAR p. 2285; AMD, 1996 MAR p. 3041, Eff. 11/22/96; AMD, 2003 MAR p. 2271, Eff. 10/17/03.)

Rules 17.8.512 and 17.8.513 reserved

17.8.514 AIR QUALITY OPEN BURNING FEES (1) Concurrent with submittal of an air quality major open burning permit application, as required in ARM 17.8.610, the applicant shall submit an air quality major open burning permit application fee.

(2) Air quality major open burning fees are separate and distinct from any air quality operation fee required to be submitted to the department pursuant to ARM 17.8.505 or Montana air quality permit application fee required to be submitted to the department pursuant to ARM 17.8.504.

(3) An air quality major open burning permit application is incomplete until the proper air quality major open burning fee is paid to the department. If the department determines that the fee submitted with the application is insufficient, it shall notify the applicant in writing of the appropriate fee which must be paid before the major open burning permit application can be processed. If the fee assessment is appealed to the board pursuant to ARM 17.8.511, and if the fee deficiency is not corrected by the applicant, the major open burning permit application is incomplete until issuance of the board's decision or until any judicial review of the board's decision has been completed, whichever is later. Upon final disposition of an appeal, any portion of the fee due to either the department or the applicant as a result of the decision is due within 30 days after issuance of the board's decision or within 30 days after issuance of the final decision in any judicial review of the board's decision.

(4) The air quality major open burning permit application fee shall be based on the actual, or estimated actual, amount of air pollutants emitted by the applicant in the last calendar year during which the applicant conducted open burning pursuant to an air quality major open burning permit required under ARM 17.8.610.

(a) The air quality major open burning permit application fee is the greater of the following, as adjusted by any amount determined pursuant to (4)(b):

(i) a fee calculated using the following formula:

tons of total particulate emitted in the previous
appropriate calendar year,
multiplied by \$7.67; plus
tons of oxides of nitrogen emitted in the previous
appropriate calendar year,
multiplied by \$1.92; plus
tons of volatile organic compounds emitted in the
previous appropriate calendar year,
multiplied by \$1.92; or

(ii) a minimum fee of \$250.

(b) The department may reduce or eliminate, as appropriate, the air quality major open burning permit application fee to be collected from an applicant in recognition of the non-monetary contributions made by the applicant to the smoke management program. The department may recognize only those non-monetary contributions made by the applicant in the last calendar year during which the applicant conducted open burning pursuant to an air quality open burning permit for major open burning sources, required under ARM 17.8.610. To be accepted for the purpose of reducing an applicant's fees for the subsequent calendar year, a written claim for non-monetary contributions to the smoke management program must be filed with the department no later than 60 days after the close of the calendar year during which the non-monetary contributions were made by the applicant. A claim must describe in detail both the nature of the non-monetary contributions and the dollar value of the contributions. Non-monetary contributions may consist of, but are not limited to, staff time and the use of equipment, supplies or space. The department shall review any written claims submitted, and may adjust the dollar value of the non-monetary contributions upon finding that the value assigned to the contributions is not reasonable, the non-monetary contributions that were made were not reasonably related to the smoke management program, or both. In no case may an applicant be reimbursed for non-monetary contributions in excess of the applicant's assessed open burning permit fee. (History: 75-2-111, MCA; IMP, 75-2-211, 75-2-220, MCA; NEW, 1992 MAR p. 2061, Eff. 9/11/92; AMD, 1994 MAR p. 2130, Eff. 8/12/94; AMD, 1995 MAR p. 1669, Eff. 8/25/95; TRANS, from DHES, 1996 MAR p. 2285; AMD, 1997 MAR p. 1587, Eff. 9/9/97; AMD, 1998 MAR p. 1729, Eff. 6/26/98; AMD, 2000 MAR p. 2697, Eff. 10/6/00; AMD, 2001 MAR p. 2023, Eff. 10/12/01; AMD, 2002 MAR p. 2902, Eff. 10/18/02; AMD, 2003 MAR p. 2271, Eff. 10/17/03; AMD, 2004 MAR p. 2547, Eff. 10/22/04.)

17.8.515 AIR QUALITY OPEN BURNING FEES FOR CONDITIONAL, EMERGENCY, CHRISTMAS TREE WASTE, COMMERCIAL FILM PRODUCTION AND FIREFIGHTER TRAINING OPEN BURNING PERMITS (1) Concurrent with submittal of an air quality open burning permit application, as required in ARM 17.8.611, 17.8.612, 17.8.613, 17.8.614, or 17.8.615, the applicant shall submit an air quality open burning fee.

(2) Air quality open burning fees are separate and distinct from any other air quality fee required to be submitted to the department pursuant to this subchapter.

(3) An air quality open burning permit application is incomplete until the proper air quality open burning fee is paid to the department, except as provided in (4)(c). If the department determines that the fee submitted with the application is insufficient, it shall notify the applicant in writing of the appropriate fee which must be paid before the open burning permit application can be processed. If the fee assessment is appealed to the board pursuant to ARM 17.8.511, and if the fee deficiency is not corrected by the applicant, the permit application is incomplete until issuance of the board's decision or until any judicial review of the board's decision has been completed, whichever is later. Upon final disposition of an appeal, any portion of the fee due to either the department or the applicant as a result of the decision is due within 30 days after issuance of the board's decision or within 30 days after issuance of the final decision in any judicial review of the board's decision.

(4) The air quality open burning permit application fees are:

(a) \$100 for an emergency open burning permit under ARM 17.8.611. A fee for an emergency open burning permit application need not be submitted with the initial oral request to the department, but must be submitted with the subsequent written application required under ARM 17.8.611. Submittal of the fee is a condition of any authorization given by the department under ARM 17.8.611, and the failure to submit the fee is considered a violation of such authorization and may be subject to enforcement action;

(b) \$100 for a wood and wood byproduct trade waste open burning permit under ARM 17.8.612;

(c) \$100 for an untreated wood-waste open burning permit at a licensed landfill site under ARM 17.8.612. The required fee for this activity is included in the solid waste management system licensing fee, submitted pursuant to ARM Title 17, chapter 50, subchapter 4. Therefore, the applicant is not required to submit a fee with the untreated wood-waste open burning permit application;

(d) \$100 for a Christmas tree waste open burning permit under ARM 17.8.613;

(e) \$100 for a commercial film production open burning permit under ARM 17.8.614; and

(f) \$25 for a firefighter training open burning permit under ARM 17.8.615. As a condition of a firefighter training open burning permit, the department may require submission of an annual fee to maintain the permit. (History: 75-2-111, 75-2-211, 75-2-220, MCA; IMP, 75-2-211, 75-2-220, MCA; NEW, 1992 MAR p. 2743, Eff. 10/16/92; AMD, 1994 MAR p. 2830, Eff. 10/28/94; TRANS, from DHES, 1996 MAR p. 2285; AMD, 2003 MAR p. 2271, Eff. 10/17/03.)

